

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

Accelerating Wireless Broadband Deployment by	)	WT Docket No. 17-79
Removing Barriers to Infrastructure Investment	)	
	)	
Revising the Historic Preservation Review Process	)	WT Docket No. 15-180
for Wireless Facility Deployments	)	

COMMENTS OF:

Eastern Shawnee Tribal Historic Preservation Office

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The Eastern Shawnee Tribe (Tribe) is currently located in far northeastern Oklahoma. Historically Shawnees occupied a wide range of lands which includes many present-day states east of the Mississippi River. The United States government placed our settlement of Shawnees on the Lewistown Reserve in western Ohio per the *Treaty with the Shawnee*, September 29, 1817, 7 Stat., 160 and later forcibly removed us to a reservation in Indian Territory per the *Treaty with the Seneca and Shawnee*, December 29, 1832, 7 Stat., 411.

The Eastern Shawnee Tribe works with a variety of federal agencies on small and large projects in the compliance of federal laws, including but not limited to the National Historic Preservation Act (NHPA), the Native American Graves Protection and Repatriation Act (NAGPRA). Our tribe protects irreplaceable sites and locations that are of religious and cultural significance to our people today by continuing the successful collaborative processes that have been established with federal agencies, other Indian tribes, and project developers.

The Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS) system has proven to be a very useful tool to track, monitor, and expedite the placement of cellular technology infrastructure. Over the past several years, we have worked with and developed quality relationships with the many consultants installing telecommunication infrastructure facilities, including cell tower siting, through the TCNS Program. Our tribe employs a team of individuals which provides prompt responses to cell tower notifications. If and when any situations arise using the TCNS Program, we have been able to promptly contact industry consultants and/or FCC staff to expedite resolutions. With the emerging 5G technology by the wireless telecommunications industry we can see the benefits of modernizing the existing TCNS system to meet the needs of the future.

The FCC has participated in meaningful consultation with Indian Nations, including our Tribe and should continue to do so when assisting in our understanding of proposed rules that industry is proposing. Definitions of small cells by industry and the FCC needs further clarification and consistency in order for a smooth and timely approval process for small cell and 5G to be deployed.

#### **A. Streamlining State and Local Review**

##### **1. "Deemed Granted" Remedy for Missing Shot Clock Deadlines**

The Tribe is providing our cultural assessments in a timely manner and we do not intentionally hold up projects. We have met the 30 day period for researching and supplying our reviews, which begins after the complete package of necessary information arrives in our offices.

#### **B. Reexamining NHPA and NEPA Review**

##### **1. Background**

The Tribe positively believes that NHPA and NEPA review are essential for Indian tribes. The FCC acknowledges the sovereignty of Indian tribes as should industry. Tribes are governments looking out for the health, safety and advancement of their people and the protection of lands and resources.

Builders, industry consultants, municipalities, land owners are paid for various areas involvement associated with the construction of communication structures. Tribes provide the service of reviewing the construction area for determining clearance which is also associated with licensing of communication structures under NHPA. The fees for our reviews pertain to the costs associated with conducting research and the administrative costs included in reporting of this research.

## **2. Updating Our Approach to the NHPA and NEPA**

### **A. Need for action**

As previously stated, the existing TCNS has been working well for the Tribe. We comply with the NHPA and provide timely responses to TCNS notifications. The Tribe understands the need to keep projects on track therefore we work diligently to present our responses in a timely manner. Our ancestral homeland includes areas where multiple tribes were occupants and they also provide replies. This is simply a part of doing business in certain areas of Indian country. The FCC should continue to recognize this complexity of this history.

We work diligently with the wireless industries' consultants to modify locations of towers when proposed towers will effect resources, before declaring the finding of adverse effect.

### **B. Process Reforms**

#### **i. Tribal Fees**

The issue of tribes being paid fees to perform research for ensuring communication structures are ultimately built in areas clear of resources of importance to tribes should be dealt with, thus we support a scale for fee structure be developed in consultation with tribes.

#### **ii. Other NHPA Process Issues**

We believe that the FCC needs to retain oversight over the Section 106 process for applicants.

### **C. NHPA Exclusions for Small Facilities**

#### **iii. Rights of Way**

The Tribe does not agree that right of ways should be excluded from the NHPA process if ground disturbance occurs.

#### **iv. Collocations**


When collocations occur without ground disturbance, we concede tribal reviews could be modified.

## **3. Collocations on Twilight Towers**

The Tribe does not believe that twilight tower owners/renters should be given a free pass when there has been no determination of adverse effects because intact and significant cultural resources can and do exist in seemingly very disturbed locales.

### **CONCLUSION**

We urge the FCC to conduct government-to-government consultation with all tribes that may be impacted by this effort to modify the cell tower infrastructure process. The Tribe reserves the right to submit additional comments as necessary.

  
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